

Nos. 2013-1649, -1653, -1654

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IN THE  
**United States Court of Appeals  
for the Federal Circuit**

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BIAX CORPORATION,

Plaintiff-Appellant,

v.

NVIDIA CORPORATION,

Defendant-Cross-Appellant,

and

SONY COMPUTER ENTERTAINMENT AMERICA, INC.

and SONY ELECTRONICS, INC.

Defendants-Cross-Appellants,

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Appeal from the United States District Court for the District of Colorado  
in Case No. 09-CV-1257, Judge Philip A. Brimmer

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**APPELLANT BIAX CORPORATION'S MOTION FOR EXTENSIONS  
OF TIME TO FILE AND SERVE BRIEFS**

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November 5, 2013

Pursuant to Federal Circuit Rule 26(b), Plaintiff-Appellant BIAX Corporation (“BIAX”) requests an extension of time to file its principal brief and for Defendants-Cross Appellants to file their principal briefs, as follows:

## **BACKGROUND**

1. This appeal was docketed on September 13, 2013. Docket No. 1-1. Defendants and Cross-Appellants NVIDIA Corporation (“NVIDIA”), Sony Computer Entertainment America, Inc. (“Sony America”), and Sony Electronics, Inc. (“Sony Electronics, together with Sony America are “Sony”), filed notices of appeal of the same order from which BIAX appeals. Sony and NVIDIA commenced appeals at case numbers 13-1653 and 13-1654 in this Court.

2. Pursuant to Fed. Cir. R. 31(a)(1)(A), BIAX’s brief is due November 12, 2013. Pursuant to Fed. Cir. R. 26(b)(2), BIAX seeks to extend the deadline to file its brief for fourteen (14) days until November 26, 2013.

3. In addition, Pursuant to Fed. Cir. R. 31(a)(3), the deadline for Sony and NVIDIA to file their principal briefs is forty (40) days after BIAX files its principal brief. If BIAX files its principal brief on November 26, 2013, Sony’s and NVIDIA’s principal briefs would be due January 6, 2014. BIAX seeks to extend the deadline for Sony and NVIDIA for fourteen (14) days to provide Sony and NVIDIA a total of fifty-four (54) days to file their principal briefs.

4. No party has requested, and this Court has not granted, a previous

extension of any deadline.

## **CAUSE FOR THE EXTENSION**

5. This Court may grant an extension of time for good cause shown pursuant to Fed. R. App. P. 26 and Fed. Cir. R. 26. As good cause for the 14-day extension, BIAX states that:

a. On September 17, 2013, BIAX filed a petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Colorado at case number 13-25825. BIAX, Sony, and NVIDIA are working towards a stipulated motion for relief from the automatic stay of 11 U.S.C. § 362, *nunc pro tunc* to September 17, 2013; and

b. BIAX anticipates that its brief and the appendix will contain material subject to a protective order entered by the United States District Court for Colorado. BIAX anticipates that compliance the obligations imposed by Fed. Cir. R. 28(d) and 30(h) to file and serve two sets of briefs and appendices may require additional time, particularly given the voluminous record on appeal in this matter.

c. Several holidays interrupt the time in which Sony and NVIDIA have to file their principal briefs.

6. Counsel for BIAX has notified all other parties<sup>1</sup> that BIAX would be

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<sup>1</sup> Sony and NVIDIA appealed the denial of sanctions against BIAX's former counsel, Dorsey &

filings this motion. No party, including Dorsey, opposes the relief requested in this Motion.

**WHEREFORE**, BIAX requests that this Court enter an order: (i) extending the deadline for Plaintiff-Appellant BIAX to file its principal brief from November 12, 2013 to through and including November 26, 2013; (ii) extending the deadline for Defendant-Cross-Appellants Sony and NVIDIA to file their principal briefs to fifty-four (54) days from when BIAX files its principal brief; and (iii) for such further relief as this Court may deem proper.

Dated: Nov. 5, 2013

Respectfully submitted,

**ONSAGER, STAELIN & GUYERSON, LLC**

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Whitney, LLP (“Dorsey”). No attorney for Dorsey has yet filed an entry of appearance in this case, but counsel for BIAX notified the attorney who formerly represented BIAX that this motion would be filed.

## CERTIFICATE OF SERVICE

The undersigned certifies that on November 5, 2013, the following document was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the counsel below and all counsel of record who have been deemed to have consented to service via the CM/ECF system.

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In addition, a copy of the foregoing was placed in the United States mail, first class postage prepaid to:

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